

HOUSE BILL REPORT

HB 2802

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to penalties for trading in nonambulatory livestock.

Brief Description: Establishing penalties for trading in nonambulatory livestock.

Sponsors: Representatives Schoesler, Linville, Romero, Grant, Shabro, Schual-Berke, Rockefeller, Flannigan, Alexander, Hudgins, Anderson, Ruderman, Sump, Murray, Boldt, Darneille, Clements, Dickerson, Newhouse, Hunt, Lantz, McDermott, Kenney, Haigh, Clibborn, Kristiansen, Holmquist, Quall, O'Brien, Eickmeyer, Woods, Buck, Bailey, Kessler, Simpson, G., Morrell, Wallace, Lovick, Edwards, Benson, Pearson, Nixon, Armstrong, Hinkle, Wood, Moeller, Ahern, Roach, Cooper, McCoy, Cody, Conway, Kagi, Ormsby, Skinner, McMorris, Campbell, Sullivan, Chase, Santos and Condotta.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/3/04, 2/4/04 [DPS].

Brief Summary of Substitute Bill

- Makes the knowing transport or acceptance of live nonambulatory livestock to, from, or between designated facilities a criminal violation of the state's animal cruelty laws.
- Requires nonambulatory livestock to be humanely euthanized before transport.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Caroleen Dineen (786-7156).

Background:

Federal Law

Interstate commerce of food and consumer products is subject to a variety of federal laws. Under federal law, the import, export, transport, treatment, and slaughter of livestock are regulated. In addition, food standards, food labeling, animal feed, and consumer products that include animal byproducts are regulated under federal law.

State Law

Washington's animal health laws authorize the Director of the Washington State Department of Agriculture (WSDA) to take actions to control animal disease. Among other powers, the WSDA Director may issue "hold orders" for up to seven days for disease control and other purposes, require permits for import of animals with or exposed to reportable diseases, and require immediate report of livestock infected with or exposed to certain diseases. Washington law also includes provisions for inspection and testing, health certification for animal importation, destruction of diseased animals, and disposal of animal carcasses. State law makes violation of the state animal health laws a gross misdemeanor and also authorizes civil enforcement actions for violations.

State law also addresses meat production and food safety issues. State law includes requirements and standards for slaughter facilities and rendering plants. In addition, Washington's food, drugs, and cosmetics law addresses numerous food and consumer product safety issues, including food standards, processing, additives, adulteration, storage, transport, labeling, and advertising.

Further, state law includes standards for treatment of livestock and other animals. State law requires humane slaughter of livestock and imposes sanctions for violations. State animal cruelty statutes prohibit certain practices and activities involving animals, including transporting or confining animals in an unsafe manner. In addition, the animal cruelty statutes establish two classes of criminal violations. Animal cruelty in the first degree, a class C felony, involves intentionally inflicting substantial pain on, causing physical injury to, or killing an animal by a means that causes undue suffering. Animal cruelty in the second degree (a misdemeanor) is committed when a person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal. The state animal cruelty laws do not apply to accepted husbandry practices that are used in the commercial raising or slaughtering of livestock.

Bovine Spongiform Encephalopathy

The December 2003 detection of Bovine Spongiform Encephalopathy (BSE) ("mad-cow" disease) in a holstein cow in Washington became the first confirmed BSE case in the United States. Bovine Spongiform Encephalopathy is a fatal neurological disorder affecting the brain and central nervous system of cattle and is part of a family of transmissible spongiform encephalopathies (TSE) affecting humans and other animals, including sheep, goats, deer, and elk. According to the federal Centers for Disease Control and Prevention (CDC), evidence suggests a causal relationship between outbreaks of BSE in European cattle and a human disease known as new variant Creutzfeldt-Jakob disease (vCJD). Both BSE and vCJD are

invariably fatal brain diseases with long incubation periods caused by an unconventional transmissible agent. There is no known cure or treatment for either BSE or vCJD.

Summary of Substitute Bill:

Transport or accepting delivery of live nonambulatory livestock is a criminal violation of the state's animal cruelty laws under certain circumstances. Any person who knowingly transports or accepts delivery of live nonambulatory livestock to, from, or between any livestock market, feedlot, slaughtering facility, or similar facility that trades in livestock is guilty of a gross misdemeanor. The transport of each nonambulatory livestock animal is a separate and distinct violation. "Nonambulatory livestock" is defined for purposes of the criminal violation as cattle, sheep, swine, and goats and horses, mules, or other equine that cannot rise from a recumbent position or cannot walk. The definition includes those livestock with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column, or metabolic conditions.

Nonambulatory livestock must be humanely euthanized before transport.

Substitute Bill Compared to Original Bill:

The substitute replaces authority for an administrative fine for unlawful transport or delivery with criminal sanctions for such actions. The substitute also limits application of these provisions to transport or accepting delivery of live nonambulatory livestock to, from, or between any livestock market, feedlot, slaughtering facility, or similar facility and removes the exceptions to the prohibition. In addition, the substitute codifies these provisions in the animal cruelty rather than animal health statutory chapter. Further, the substitute requires humane euthanasia of nonambulatory livestock before transport. Finally, the substitute defines nonambulatory livestock for purposes of these provisions.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: Interested parties have worked hard to address the bill's concepts in understandable language. Some in the industry already have policies against transport of "downer" cattle. Consumers need to have the highest level of confidence in the human food supply. This bill has strong support.

The state needs to deal with concerns about "downer" animals in the human food chain. Even young downer animals should be banned from the human food chain, but the federal ban covers only animals over a certain age. Federal regulations also do not prohibit use of animal

byproducts in animal feed and other products. Downer animals should not be rendered; an effective feed ban is needed.

The process for transporting downer cows is extremely cruel. Current practices are a blight on the industry. These animals should be treated humanely. Attention should be given to timely euthanasia.

(Neutral) These provisions should be codified in the animal cruelty statutes (chapter 16.52 RCW) rather than the animal health statutes (chapter 16.36 RCW). The veterinarian exceptions should not be limited to state-licensed veterinarians. The Legislature should consider including other animal health care providers within the exceptions.

(Concerns) The definition of nonambulatory livestock is too broad. The bill should not prohibit moving animals from one site to another within a single farming operation. The fines are too high. The bill should be limited to the provisions of the federal rules.

Testimony Against: None.

Persons Testifying: (In support) Mark Triplett, Tyson Meats/IBP; Jay Gordon, Washington State Dairy Federation; Susan Michaels, Pasado's Safe Haven; Heather Hansen, Washington Cattle Feeders Association; Jan Gee, Washington Food Industry; Dave Louthan; Ralph Turner; and Karen Mueller, DVM.

(Neutral) Kathy Connell, DVM, State Veterinarian.

(In support with concerns) Hertha Lund and Terry Willis, Washington State Farm Bureau.

Persons Signed In To Testify But Not Testifying: None.